REPORT TO THE LEGISLATURE
FAMILY COST PARTICIPATION ASSESSMENT PROGRAM

APRIL 2004

California Health and Human Services Agency
Department of Developmental Services
1600 Ninth Street, Room 240
Sacramento, CA 95814

This report is submitted to fulfill the mandate of the Welfare and Institutions Code, Section 4620.2

California Department of Developmental Services

REPORT TO THE LEGISLATURE

Family Cost Participation Assessment Program

April 2004

I. SUMMARY

This report is being submitted to the Legislature pursuant to Welfare and Institutions Code (WIC), Section 4620.2 which requires the Department of Developmental Services (Department) to develop a system of enrollment fees, co-payments, or both, to be assessed against the parents of children between the ages of 3 through 17 years of age who live in the parent's home, receive regional center purchased services, and are not Medi-Cal eligible. On or before April 1, 2004, the Department is to submit a report to the Legislature which includes the system of copayments and a detailed plan of implementation to be included as a part of the Governor's 2004-05 proposed budget or subsequent legislation.

II. RECOMMENDATION

The Department considered a number of options for the implementation of a family cost participation assessment program, including one which would be administered by the State, and included both a co-payment for services and an enrollment fee that would offset the State administrative costs. This proposal would have resulted in an increase in the State workforce and administrative costs, required access to Franchise Tax Board (FTB) records, and required the Department to collect fees from families; therefore, it was determined that this alternative was not feasible under the guiding principles. After careful consideration, including input from stakeholders in the developmental services system, the Department is proposing to implement a Family Cost Participation Assessment Program (FCPAP) without an enrollment fee through the regional center system. This proposal does not increase the state workforce, does not require access to FTB records and does not entail the collection of monies by the State or the regional center. Further, it is consistent with the overall guiding principles that consumers with developmental disabilities will continue to receive needed services included in their Individual Program Plan (IPP) and families who are financially able to do so, will participate in the cost of those services. In addition, this proposal limits the cost participation assessment to three services: respite, day care, and camping. Limiting the services ensures that the consumers' health and safety will remain protected.

The FCPAP program would be administered by each regional center after the necessary services and supports are identified and included in the IPP and the level of the family's participation is determined based on their ability to pay. As noted above, there would be no enrollment fee assessed on the family. The enrollment fee process would be costly to administer at the regional centers and would require the collection of revenue. As envisioned, the regional center would pay its portion of the authorized services, and the family would then purchase the remaining authorized services directly from the providers. There would be no revenue collected by the regional centers.

The Department would promulgate regulations and develop assessment tools for the regional centers to ensure uniformity in application of this program.

III. BACKGROUND

California provides services and supports to people with developmental disabilities through five state-operated developmental centers, two State-operated community facilities, and 21 non-profit regional centers. Prior to the late 1960s, most Californians with developmental disabilities received services through one of 11 developmental centers (then called state hospitals) or in a parent's or other relative's home. While there were some community homes, they were scarce, and the services provided were fragmented. This scenario changed in 1969 with the enactment of the Lanterman Mental Retardation Services Act, subsequently renamed the Lanterman Developmental Disabilities Services Act (Lanterman Act). This landmark legislation created the nation's only system of entitlements to services for persons with developmental disabilities. Essentially, passage of the Lanterman Act meant that any service identified in the consumer's IPP was to be provided at no cost, with the exception of the Parental Fee Program for minors living outside of their family home, and a subsequent amendment to include parental responsibility in sharing in the cost of diapers for children birth to three years of age and for a portion of day care services.

Under the Parental Fee Program, parents are assessed a fee, depending on their financial ability to pay, not to exceed the cost of caring for a child without developmental disabilities at home or the actual cost of service. The fee assessment applies to only those children birth to 18 years of age who reside in 24-hour, out-of-home facilities, including State developmental centers and State-operated community facilities. Assessments are based on the family's annual gross income, the number of persons dependent on that income, and the age of the child with developmental disabilities. Fees are capped at a maximum of $662 monthly. The Department administers this program and collects about $1.7 million annually.

There is considerable precedence for developing a system of family financial responsibility for the services provided to their minor children. California has other programs that offer social, medical, and mental health services. The commonality of these systems is a financial-means test to determine eligibility for participation and determination of the amount of family financial participation for minor children receiving these services.

Several other states, such as Texas, Kansas, and Wisconsin, have recently modified existing state law to add or amend family financial participation. Texas uses the parents' annual taxable income with fees beginning at $4,000 of annual income producing a monthly fee of $10. The fee schedule is graduated in $1,000 increments in the annual income and monthly fees by $10. Therefore, a family with an annual taxable income of $100,000 would be liable for a monthly fee of $970 or $11,640 annually. In the Kansas and Wisconsin models, fees are not assessed against families having annual gross incomes below 200 percent of the Federal Poverty Level (FPL). At 201 percent, the monthly fee is 0.5 percent of the monthly income. The fee schedule increases to 3 percent of incomes in excess of 601 percent of the FPL.

IV. LEGISLATIVE REQUIREMENTS

In response to the State's current fiscal crisis, the prior Administration sought to develop a system of cost participation from the families of children ages 3 through 17 years who lived in the family's home, received services through a regional center, and were not Medi-Cal eligible. The 2003-04 Governor's Budget included a Budget Change Proposal outlining the design of the cost participation system and amount of revenue that would be generated. During budget hearings, the proposal was rejected by the Legislature mainly due to the financial impact on families and concern regarding the potential breach of confidentiality due to accessing FTB income information. Subsequently, the Legislature adopted Trailer Bill language in Assembly Bill 1762 (Chapter 230, Statutes of 2003) requiring the Department to develop a system of enrollment fees and/or co-payments and report back to the Legislature on this system by April 1, 2004.

The statute further directed the Department to consult with stakeholders in developing the system. On December 2, 2003, the Department held a stakeholders meeting where approximately 70 stakeholders were present to provide ideas on the development of an enrollment and/or co-payment system. In addition, as requested by the stakeholders during that meeting, the Department participated in a subsequent telephone conference call which included approximately 30 stakeholders throughout the State. The Department also received written comments from 171 stakeholders, some of whom also attended the stakeholders meeting. Finally, on March 1, 2004, the Department released to stakeholders a framework of two options in response to the Legislative mandate for their review and comment, and on March 9, 2004, the Department conducted a meeting with approximately 30 key stakeholders to answer questions relative to the two options. Comments on the proposals were due to the Department on March 15, 2004. The results of the meetings and comments received are incorporated into this report (see Attachment A).

In addition, the Department was required to conduct a survey of the families who would be affected by the system. The survey was to obtain the following: 1) the family's annual adjusted gross income, 2) the number of family members dependent on that income, and 3) the number of other minor children in the family who also receive services through the regional center, either in the home or in 24-hour, out-of-home placement. Finally, the Department was instructed to report the findings of the survey, in aggregate.

In response to this mandate, a survey was released on November 21, 2003, to approximately 22,000 families who met the criteria included in statute for family cost participation assessment. The Department initially identified 48,000 consumers in the existing database who were between the ages of 3 through 17 years of age, lived in their family's home, and received regional centers services. Approximately 26,000 consumers in that group were Medi-Cal beneficiaries and were removed from the survey. The Department received about 6,100 responses or approximately 27 percent of the total surveyed (see Attachment B). It is interesting to note that it appears the income levels of non-Medi-Cal eligible families with children receiving services from the regional center system closely mirror income levels of the general public in California.

The following proposal is the response to the Legislative mandate and the culmination of the Department's efforts to gather and analyze the survey data, consider and address the input provided by the stakeholders, and develop a reasonable system of family participation in accessing services included in a child's IPP. While the Department was not able to resolve each concern raised by the stakeholders, this proposal is considered to be the most effective way to administer this program. (see Attachment C for the development and implementation timeline).

V. FAMILY COST PARTICIPATION ASSESSMENT PROGRAM PROPOSAL

Basic Principles:

When developing the proposal, the following principles were considered:

- All families who are financially able to participate in the cost of services provided to their children should do so.

- Family cost participation shall be developed in such a manner that will not create an unacceptable financial burden, will maintain the integrity of the family, and encourage families to continue caring for their children in their own home.

- Family cost participation will not compromise the health and safety of consumers receiving services.

- The assessment of family cost participation will not impact the IPP process that reflects the consumers' goals, objectives, and services and supports. The families' responsibility will be applied as part of the purchase of service authorization process.

- Consideration will be given to the number of family members dependent on the income and the number of children who receive services through the regional center, while either in the family's home or out-of-home, including developmental centers.

- The system must be simple and cost-effective to administer (e.g., costs to administer the system cannot exceed the ongoing realized savings).

- The amount of the family cost participation assessment will be less than the amount of the parental fee for 24-hour, out-of-home placement in order to encourage families to continue caring for their children in their own home.

- The system must not affect the Department's eligibility for other funding sources (i.e., waivers, Medi-Cal, etc.).

- The system must react to changes in family economic conditions or unforeseen, unusual family hardships, and allow for the re-determination of the level of cost participation based on those changes.

Services:

Three services would be considered when determining the family's cost assessment:

- Respite
- Day Care
- Camping

All other services provided by the regional center system were determined to have a direct impact on consumers, and therefore, were not considered for inclusion in the assessment process. It is essential that the needs of consumers remain as the main priority to ensure that their health and safety is not compromised.

The level of services would be determined during preparation of the IPP with the participation of the consumer, family, regional centers, and others, as appropriate (see Attachment D for a flowchart of the process). The amount of services and supports purchased by the regional center would be guided by the proposed Statewide Purchase of Services (POS) Standards and subject to any exceptions granted by the regional center to protect the health and safety of the consumer, or to prevent the consumer's movement to a more restrictive living environment.

Income:

Families with children with developmental disabilities who are between the ages of 3 and 17 years and receive one or more of the targeted services would be required to submit income verification to the regional center to determine their level of participation in the provision of those services. Families whose annual gross income is less than 400 percent of the FPL, as adjusted by family size, would not be assessed. Families whose annual gross income is 400 percent or more above the FPL, as adjusted by family size, would share in the cost of services provided to their children. The family's share of cost participation would be re-determined annually to assess the appropriate level of cost participation. A re-determination could be made sooner if there was a significant change in family circumstance, such as a severe illness that added a significant financial burden on the family, or a miscalculation of the assessment amount.

All family income records gathered by regional centers to implement and administer this program would be held confidential and subject to the provision of Section 4514, et seq. of the Welfare and Institutions Code (WIC), which states, in pertinent part, "All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000) or Division 7 Commencing with Section 7100), to persons with developmental disabilities shall be confidential . . . ," and to those sections of the Federal Health Insurance Portability and Accountability Act pertaining to confidentiality of records. Any breach of confidentiality will be subject to the provisions of Section 4518 of the WIC, which states, in pertinent part, "Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of the provisions of this chapter . . . for the greater of . . . 1) Five hundred dollars ($500), [or] 2) Three times the amount of the actual damage, if any, sustained by the plaintiff. It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages."

Assessment:

The assessment of family cost participation for those families whose annual gross income is 400 percent or more of the FPL, as adjusted by family size, would be on a sliding-scale basis from 5 percent at 400 percent of the FPL to 80 percent participation at 1300 percent of the FPL and higher (see Attachment E). In addition, the assessment would be adjusted to recognize a family with two or more children in the home, receiving one or more of the targeted services, by offsetting the cost participation for the second child by 50 percent, the third child by 75 percent, and making no assessments against the services for the fourth or additional children. A similar offset would be made for families with children in 24-hour, out-of-home placement who pay a parental fee to the State. The Department would develop simplified assessment tools to be used by a regional center when determining the family's cost participation.

Following are examples of typical cost participation assessments using a respite service model:

The proposed Statewide POS Standards currently state that regional centers may only purchase from one to 72 hours per quarter of in-home respite. However, regional centers may authorize respite services that do not meet this standard, if necessary, only to protect the health and safety of the consumer, to prevent the consumer's movement to a more restrictive living environment or to meet extraordinary consumer or family needs.

Example Number 1:

A family of four persons, including the mother, father, and two children between the ages of 3 and 17 years, one child with developmental disabilities residing in the home, is authorized 60 hours per quarter of vouchered respite services as indicated in the IPP. The family's annual gross income is $73,600 which is 400 percent above the FPL.

Using the FCPAP schedule, the family would be obligated to participate in 5 percent of the 60 hours, or 3 hours per quarter, of respite services; therefore, the regional center would pay for 57 hours per quarter. Using the hourly rate budgeted for vouchered respite of $8.57, the family's participation would amount to $25.71 per quarter, or $8.57 per month.

Example Number 2:

A family of four persons, including the mother, father, and two children between the ages of 3 and 17 years, one child with developmental disabilities residing in the home, is authorized 72 hours per quarter of vouchered respite services, even though the family indicates a need of 90 hours per quarter. The regional center determines that limiting the respite hours to the level of 72 hours stated in the POS Standards will not compromise the health and safety of the consumer. The family's annual gross income is $73,600 which is 400 percent above the FPL.

Using the FCPAP schedule, the family would be obligated to participate in 5 percent of 72 hours, or 4 hours per quarter, of respite services; therefore, the regional center would pay for 68 hours per quarter. Using the hourly rate budgeted for vouchered respite of $8.57, the family's participation would amount to $34.28 per quarter, or $11.43 per month.

Example Number 3:

A family of four persons, including the mother, father, and two children between the ages of 3 and 17 years, one child with developmental disabilities residing in the home, is authorized 90 hours per quarter of vouchered respite services, because the

IPP indicates the health and safety of the consumer would be jeopardized without this level of service. The family's annual gross income is $73,600 which is 400 percent above the FPL.

Using the FCPAP schedule, the family would be obligated to participate in 5 percent of the 90 hours, or 5 hours per quarter, of respite services; therefore, the regional center would pay for 85 hours per quarter. Using the hourly rate budgeted for vouchered respite of $8.57, the family's participation would amount to $42.85 per quarter, or $14.28 per month.

<u>Example Number 4</u>

A family of five persons, including the mother, father, and three minor children, one child with developmental disabilities residing in the home, is authorized 72 hours per quarter of vouchered respite services as indicated in the IPP. The family's annual gross income is $280,000, which is 1300 percent above the FPL.

Using the FCPAP schedule, the family would be obligated to participate in 80 percent of the 72 hours, or 58 hours per quarter, of respite services; therefore, the regional center would pay for 14 hours per quarter. Using the hourly rate budgeted for vouchered respite of $8.57, the family's participation would amount to $497.06 per quarter, or $165.69 per month.

One of the primary concerns of the stakeholders and an interest of the Legislature is the ability for the family to appeal the cost participation assessment. By limiting the assessment to three targeted services, establishing the threshold of assessments at 400 percent of the FPL, scheduling the sliding scale percentage of assessment to service at a reasonable level, and instituting a re-determination process where the regional center is obligated to re-determine the cost participation when warranted by a significant change in the family's ability to pay, a cumbersome and expensive appeal process would not be necessary.

Monitoring:

The Department would establish audit protocols to ensure consistent and accurate application of the family cost participation assessment process. Regional center compliance with the protocols would be monitored during the course of routine audits by randomly selecting a sample of consumers found to be eligible for regional center services since the last audit, plus a random sample of consumer records of current consumers, and verifying the following:

- Proper documentation that families have been notified of the family financial participation responsibility.

- Family financial information has been received.

- The family cost participation assessment has been properly computed, e.g., the assessment amount equals the proper percentage of units based on the family's financial information.

- The authorization form has been properly completed based on the consumer's IPP and the family's financial information.

- Regional center payments are made in accordance with purchase of services authorizations.

VI. EFFECT ON EXISTING LAW

Changes to existing statute would be needed to authorize the FCPAP, including emergency regulatory authority. The regulations drafted by the Department would provide specific details to the regional centers to ensure consistent application throughout the State.

VII. FISCAL IMPACT

Regional Center Operations:

An increase in funding for regional center operations would be required to administer the FCPAP, as follows (see Attachment F for detail):

2004-05:

Approximately $570,000 and 11 positions would be needed to perform the cost participation assessment function at the regional centers beginning January 2005.

2005-06:

Approximately $912,000 and 18 positions would be needed to continue the initial assessments and begin the re-determination process for those families who were phased-in in 2004-05.

2006-07:

Approximately $770,000 and 15 positions would be needed on an on-going basis for this function.

Purchase of Services:

Of the $13.6 million in targeted service costs, a savings of $570,000 in 2004-05, $3.1 million in 2005-06, and $3.5 million in on-going years would be realized due to the family's cost participation assessment (see Attachment G for detail).

The indirect fiscal impact on the POS costs in 2004-05 from implementation of the FCPAP cannot be estimated at this time. Recent budgetary and programmatic changes in the regional center system, including service-level rate freezes, unallocated reductions, and proposed POS Standards for 2004-05, have impacted the POS costs to the extent that a reliable estimate currently cannot be developed. It is expected that execution of long-term proposals, such as POS Standards and the FCPAP in 2004-05, and the restructuring of certain service provider rates and implementation of the Self-Directed Services waiver in 2005-06, will address the issue of rising purchased service costs for consumers with developmental disabilities served by the regional centers.

FAMILY COST PARTICIPATION ASSESSMENT PROGRAM

ORAL COMMENTS FROM STAKEHOLDERS

DECEMBER 2003

Oral Comments:

- DDS to administer program.
- Income for co-pay should begin at 300 percent FPL or higher.
- Geographical location adjustment by Zip Code.
- Co-pay must be subject to annual maximum ceiling.
- Must include an appeal process.
- Should include a sunset clause.
- Revenue must remain in DDS system.
- How will FTB information be handled, privacy issue.
- Co-pay to be established after deduction of out of pocket expenses.
- Co-pay should not be calculated on previous year's services because parents' used services not knowing there would be a cost.
- Co-pay should not exceed the maximum amount of parental fee.
- Exempt families enrolled in Healthy Families Insurance Program or that are receiving Veterans benefits or a Social Security award.
- Determine cost of administration and compare with potential revenue to insure program is cost effective.
- Use percent of POS expenditures rather than percent of adjusted gross income, or the lesser of the two, when calculating family cost participation.
- Use percent of taxable income because using percent of POS cost will penalize parents of medically or behaviorally fragile children.

- Generate additional funding from community based waiver programs.

- Co-pay must be calculated against net taxable income not adjusted gross.

- Exempt specific service and/or supports from co-pay assessment.

- Make co-pay tax deductible from federal and State taxes.

- Expand self-determination program to reduce cost to State.

- Recognize magnitude of savings to State General Fund by parents caring for their children in their own home.

- Reduce income by the amount of allowable deductions given to parents in parental fee program.

- Exempt all services that solely benefit the consumer by considering assessment against those services that benefit the family.

- Consider the loss of federal matching funds by decreasing utilization of services funded under the waiver program.

- Collaborate with school districts, family's vendors, etc. before any payment program is established.

- Hold more stakeholder meetings.

- Meeting does not meet intent of "consultation" because it should be a two way dialog and there is no written proposal for stakeholders to comment on before proposal goes to Legislature.

- Creation of any co-pay program is penny wise and pound foolish because many parents may opt to place their children in 24-hour out-of-home facilities at a much greater cost to the State.

Written Comments:

Nature of Comment	Number of Similar Comments Received
OPPOSED - to concept in general	103
OPPOSED - (Autism spectrum disorder clients)	69
High implementation costs offset savings/svcs	53
Geographical by zip code, not county	49
Invasion of privacy	41
Start @ 200-400% FPL-sliding scale; cap @ 20% cost of service received	39
Additional financial burden=discontinue services	32
Need appeal process for disputed co-pay	29
Intensive-need clients charged more if co-pay is based on services	26
Children who would become functional, will not with co-pay; others will need to be placed in residential care facilities	26
Behavioral intervention and respite should be co-pay exempt	22
Costs not covered by medical insurance should be part of calculation for family’s share of co-pay	16
Fix current system-delivery of services in more streamlined fashion	15
Blatant discrimination against disabled children	15
Bill language circumvents intent of Lanterman Act	13
Fee should be based on net income, not gross	13
Highly unjust for families already financially overtaxed & overburdened	13
Short term savings = expensive residential care home and hospital services	12
Should be sunset clause on this legislation	12
Do not balance budget using funds entitled to disabled	9
Regional centers should not administer co-pay program	8
Immoral to demand parents of special needs children pay without demanding co-pay for children who participate in after school programs	8
Fees should stay in DDS system/used in POS budget, not General Fund	4
Deduction/credit for all non-reimbursed out-of-pocket expenses, pursuant to tax filing schedule	4
Income based co-pay creates double taxation	4
Multiplex families would shoulder a disproportionate share of the co-pay	4

Nature of Comment	Number of Similar Comments Received
Equal to taxing a family for having a disabled child	4
Less harmful alternative would be annual enrollment fee based on adjusted income	3
Co-pay is a misguided approach to dealing with society's most vulnerable citizens	3
Consider minimal enrollment fee	3
Consider representatives from CA disability organizations as part of process in developing co-pay plan	3
Co-pay initial assessment delayed until age 5	2
No retroactive fees	1
Alternative option is “self-determination”	1
Administer by Franchise Tax-access to tax info	1
Co-pay places burden on adolescents with disabilities and utilization should be carefully tracked	1
Fix current service system to deliver services in a more streamlined fashion	1
Needs to be a genuine process of consultation in developing this proposal	1
Property tax reduction for participants who are property owners (Education system in Florida)	1
DDS should look for true waste within regional center system	1
DDS needs to pursue improved insurance coverage of disability-related needs	1

FAMILY COST PARTICIPATION ASSESSMENT PROGRAM

FRAMEWORK OF TWO OPTIONS

COMMENTS FROM STAKEHOLDERS

MARCH 2004

Oral Comments:

- General concern about propriety of regional centers performing this function.
- Has DDS considered the additional workload for regional center staff and made plans to cover it.
- Vendors will have to develop billing and collection systems to insure payment of parental portion.
- Regardless of what it is called, the proposal results in the denial of services.
- Not enough detail in plan to allow for meaningful discussion of system.

Written Comments:

- Opposed to concept in total.
- Contrary to Lanterman Act that payment by regional center is payment in full.
- Shifts responsibility from DDS to the regional centers and then to the vendors
- Must increase threshold of family income to something above 200% FPL
- Could create situation where vendors accept specific amount for the service (the rate) from the regional center but charge parents a higher amount.
- Will destroy the lives of many children and the hopes of many parents.

- Need to address implications against undocumented parents or parents not living in the state.
- Include sunset language in the TBL.
- Inform parents of cost prior to implementation so they could make informed decisions.
- DDS should consider increasing vendor rates to cover cost of collections
- Egregious to vendor agencies and parents.
- Implementation date of January 1, 2005 would not be fair to families who agreed to services but not to assessment costs.
- Creates a new tax on the wealthy
- Poor public policy and implementation will endanger a system of services and supports that has taken decades to develop.
- If parents believe that they do not have the funds to pay, the consumer will lose service and supports that could reduce disability and increase future costs.
- Reject co-payment proposal.
- An in-depth analysis of the feasibility of this plan, including the plan itself and the long range ramifications of the intended decrease in utilization, be developed.
- Did not address the 15 points included in WIC § 4620.2.
- Any such proposal should not take place during a budget crisis where funding issues will drive discussions preventing a focus to be properly centered on the consumer, the family, and the community.
- Extend comment period.
- By adding co-payments, these hard to place children will become unadoptable. (adoptive mother)
- Would undermine consumers’ access to services and would cost more to administer than would be gained by parental contributions.

- Posting such critical issues on the DDS website and giving such little time for comments is undemocratic and undermining to people, many of whom cannot speak for themselves.

- Oppose as being counterproductive in the long run, and unfair to families under extreme stress in dealing with a disabled child.

- Don't consider what else parents are spending for the consumer, lost work, special foods, medical care, extra care, mileage, therapy, and health care costs for a parent related to the extraordinary care giving to a disabled child.

- Use taxable income less federal and state taxes.

- Only one assessment should be made against a family regardless of the number of children having a developmental disability in the family.

- Consumer's well being could be put at risk if family didn't have resources to pay vendors for services prescribed in IPP.

- Could create discrimination based on caseworkers perception of consumers worthiness based on family's income.

- Impossible to protect family privacy because hundreds of staff would have information and it is almost impossible to prove that a breach in confidentiality has occurred.

- Regional centers would need additional staff.

- New software to run program would be needed.

- Create a new communication network between vendors and parents.

- Greater likelihood of error in co-payment calculations because lack of inconsistency in regional centers' internal practices.

- Require on going training to teach program to new staff.

- Require new positions to audit application of co-payment implementation.

- Vendors could figure out parents' income level based on the amount of co-payment creating yet another area for possible breach of confidentiality.

- Inherent conflict of interest.

- Need to develop software system to comply with the Sorbains-Oxely Act.
- Co-payment would ultimately be a rate reduction to vendors because of parents' failure to pay.
- Establishes administrative cost on providers to collect co-payments.
- Providers would become collection agents rather than focusing on their true job.
- Use the existing Parental Fee program software and staff to administer the co-payment program.
- Co-payment amounts must be at least 50 percent lower than Parental Fee obligations.

FAMILY COST PARTICIPATION ASSESSMENT PROGRAM

FAMILY INCOMES AND FAMILY SIZE

FROM NOVEMBER 2003 SURVEY

Income	Family Members									
	Total	% to Total	2 or less	3	4	5	6	7	8	9 or more
Under $24,240	1,095	18 %	197	263	325	184	78	27	9	12
$24,241 - $30,520	535	9 %	72	117	179	100	47	15	1	4
$30,521 - $36,800	428	7 %	39	89	164	79	45	8	3	1
$36,801 - $43,800	494	8 %	45	106	181	95	40	18	6	3
$43,801 - $49,360	374	6 %	39	59	123	103	36	5	6	3
$49,361 - $55,640	362	6 %	19	64	136	86	30	16	6	5
$55,641 - $61,920	409	7 %	16	63	161	114	41	10	2	2
Over $61,921	2,375	39 %	89	402	1,037	570	198	45	20	14
TOTAL	**6,072**	**100 %**	**516**	**1,163**	**2,306**	**1,331**	**515**	**144**	**53**	**44**

22,448	survey forms sent to parents	
1,734	returned to sender	(543 no return address, 134 out of state, 1 empty return)
20,714		
1,056	resent	
21,770	total possible returns	

27 Percent return rate

Attachment B

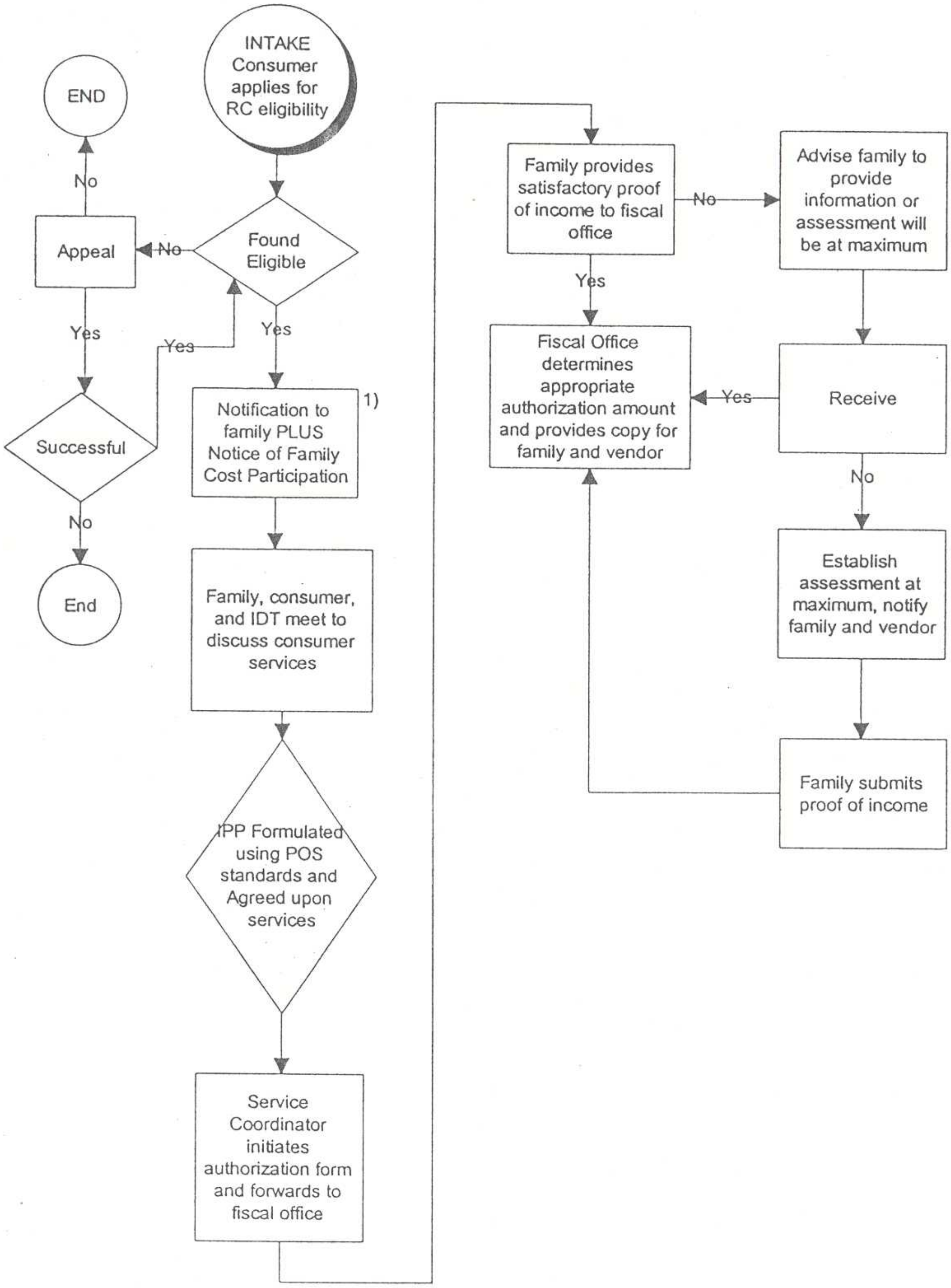
FAMILY COST PARTICIPATION ASSESSMENT PROGRAM

DEVELOPMENT AND IMPLEMENTATION TIMELINE

ACTIVITY	**DATE**
Legislature enacts statute requiring the Department of Developmental Services (Department) to develop a system of enrollment fees and/or co-payments and report to the Legislature by April 1, 2004.	August 2003
Department releases survey to eligible families requesting data on income and family size.	November 2003
Department holds meeting/participates in teleconference with stakeholders to solicit input on the development of an enrollment fee and/or co-payment system.	December 2003
Department develops State-administered and regional center-administered options.	January–February 2004
Department releases the two options to the public and solicits input.	March 2004
Administration releases the Family Cost Participation Assessment Program Plan (FCPAP) to the Legislature.	April 1, 2004
Statutory language to implement the FCPAP is amended into the 2004-05 Trailer Bill.	June 2004
The 2004-05 Budget Bill and Trailer Bill are enacted.	July 2004
Department develops FCPAP:	
• Regulations are developed in consultation with stakeholders.	July 2004-November 2004
• Assessment schedules and other processing documents are developed in consultation with regional centers.	December 2004
Training provided to regional centers on FCPAP.	December 2004
Emergency regulations are filed with the Office of Administrative Law (OAL).	December 2004
FCPAP is implemented in the regional centers.	January 2005
Regulations certificate of compliance is issued by OAL.	July 2005

Attachment D

FAMILY COST PARTICIPATION ASSESSMENT PROGRAM
Regional Center Administered



1) Includes a pamphlet describing program and a notice that the family must provide satisfactory proof of income to the regional center.

FAMILY COST PARTICIPATION ASSESSMENT

Calculating the Family Cost Participation Assessment:

You will need the number of exemptions you claimed and your annual gross income from your most recent federal or State income tax return, W-2 form or payroll stub. Then follow the directions below.

Federal Poverty Level	FCPA* % of POS	Family of Two Annual Gross Income	Family of Three Annual Gross Income	Family of Four Annual Gross Income	Family of Five Annual Gross Income	Family of Six Annual Gross Income	Family of Seven Annual Gross Income	Family of Eight Annual Gross Income
400%	5%	$48,480	$61,040	$73,600	$86,160	$98,720	$111,280	$123,840
500%	10%	$60,600	$76,300	$92,000	$107,700	$123,400	$137,100	$154,800
600%	15%	$72,720	$91,560	$110,400	$129,240	$148,080	$166,920	$185,760
700%	20%	$84,840	$106,820	$128,800	$150,780	$172,760	$194,740	$216,720
800%	30%	$96,960	$122,080	$147,200	$172,320	$197,440	$222,560	$247,680
900%	40%	$109,080	$137,340	$165,600	$193,860	$222,120	$250,380	$278,640
1000%	50%	$121,200	$152,600	$184,000	$215,400	$246,800	$278,200	$309,600
1100%	60%	$133,320	$167,860	$202,400	$236,940	$271,480	$306,020	$340,560
1200%	70%	$145,440	$183,120	$220,800	$258,480	$296,160	$327,360	$371,520
1300%	80%	$157,560	$198,380	$239,200	$280,000	$320,840	$361,660	$402,480

*Family Cost Participation Assessment (FCPA)
Percentage of Purchase of Services (% of POS)

Instructions for Calculating Percentage of Family Cost Participation:

1. Find the column for the family size.
2. Read down the column until you find your Annual Gross Income.
3. Read horizontally back to the left column, titled FCPA. This is percentage of your family cost participation.
4. Multiplying the number of units of service by the percentage will give the FCPA in units of service equaling the family cost participation.
5. Consistent with the Parental Fee Program, the FCPA shall not exceed:
   a) $6,400 annually if the child is between 3 through 6,
   b) $7,000 annually if the child is between 7 through 12,
   c) $7,900 annually if the child is between 12 through 17.

Attachment E

Family Cost Participation Assessments (Operations)

DESCRIPTION:

The Legislature adopted Trailer Bill Language, AB 1762 (Chapter 230, Statutes of 2003), requiring the Department to develop a system of enrollment fees and/or cost assessments as a method of creating a form of parental financial liability. This methodology reflects the operational cost of additional staff needed at the regional centers to administer the Family Cost Participation Assessment Program.

IMPLEMENTATION DATE:

- Regional centers will begin hiring staff on December 1, 2004 to allow for participation in forms development and training prior to the January 1, 2005 implementation of the Family Cost Participation Assessment Program.

KEY DATA/ASSUMPTIONS:

- Welfare and Institutions Code Section 4620.2 requires the Department to develop an enrollment fee and /or co-payment assessments. Key requirements of the legislation are:
  - Applies to children between the ages of 3 to 17.
  - Must live in parents' home.
  - Must receive purchased services through a regional center.
  - Threshold income level must be equal to or exceed 200 percent of the federal poverty guideline adjusted for family size.
  - Must consult with stakeholders prior to submission of the system of co-payment assessments and the detailed implementation plan.
  - Must survey parents affected to determine annual adjusted gross income, number of persons dependent on income, and number of minor children in the family who receive regional center services.
- In calendar year 2002, approximately 22,448 non-Medi-Cal-eligible consumers 3-17 years of age lived in their parents' home. It is estimated that approximately 6,793 of these consumers' family income is equal to or greater than 400% of the federal poverty level, which is the threshold included in this proposal.
- Support staff will be needed at the regional centers to verify parents' annual gross income, setting the proper level of the cost participation, answering questions from parents, and annually re-determining the amount of the parents' cost participation on an anniversary date.
- The equivalent of .5 Program Technician II position will be added for each of the 21 regional centers. In addition, one Program Technician II will be added for each 1,778 hours (full-time equivalent for one position) based on the hours needed for initial determinations (average of 2-1/2 hours each) and annual determinations (average of one hour each).
- It is estimated that re-determinations will be requested for 5% of initial determinations. The average amount of time per re-determination is estimated at four hours.
- Program Technician II salary is based on the California State Personnel Board Pay Scales (mid range).

Family Cost Participation Assessments

METHODOLOGY:

OPERATIONS:

	Positions	Salary	BY 2004-05 Costs
CORE STAFFING			
PERSONAL SERVICES:			
● **Administration:**			
* Fiscal	11.29	$36,468	$411,541
* Program Technician II: *0.5 per regional center*	*6.13*	*$36,468*	
* Program Technician II: *See Attachment for detail*	*5.16*	*$36,468*	
● **Fringe Benefits:**	23.7%	Per Position	97,535
● **Salary Savings:**	-5.5%	Per Position	-27,999
Total Personal Services			**$481,077**
OPERATING EXPENSES:			
● **Operating Expenses:** Clerical Positions:	$2,400	Per New Position	$27,084
● **Rent:** BY 2004-05	$5,478	Per New Position	61,819
Total Operating Expenses			**$88,903**
TOTAL EXPENDITURES			**$569,980**
(Rounded)			**$570,000**

FUNDING:
100% General Fund.

CHANGE FROM PRIOR ESTIMATE:
This is a new assumption.

REASON FOR YEAR-TO-DATE CHANGE:
N/A

EXPENDITURES:

EXPENDITURES:	**$570,000**
General Fund	$570,000
General Fund Match	*0*
General Fund Other	*570,000*

Family Cost Participation Assessments

METHODOLOGY:

OPERATIONS:

			2005-06
CORE STAFFING			Costs
PERSONAL SERVICES:			
● **Administration:**	Positions	Salary	
* Fiscal	18.06	$36,468	$658,612
* Program Technician II: *0.5 per regional center*	*10.50*	*$36,468*	
* Program Technician II: *See Attachment for detail*	*7.56*	*$36,468*	
● **Fringe Benefits:**	23.7%	Per Position	156,091
● **Salary Savings:**	-5.5%	Per Position	-44,809
Total Personal Services			**$769,894**
OPERATING EXPENSES:			
● **Operating Expenses:** Clerical Positions:	$2,400	Per New Position	$43,344
● **Rent:** BY 2004-05	$5,478	Per New Position	98,933
Total Operating Expenses			**$142,277**
TOTAL EXPENDITURES			**$912,171**
(Rounded)			**$912,000**

FUNDING:
100% General Fund.

CHANGE FROM PRIOR ESTIMATE:
This is a new assumption.

REASON FOR YEAR-TO-DATE CHANGE:
N/A

EXPENDITURES: $912,000

General Fund	$912,000
General Fund Match	*0*
General Fund Other	*912,000*

Family Cost Participation Assessments

METHODOLOGY:

OPERATIONS:

	Positions	Salary	2006-07 Costs
CORE STAFFING			
PERSONAL SERVICES:			
● **Administration:**			
* Fiscal	15.24	$36,468	$555,772
* Program Technician II: *0.5 per regional center*	*10.50*	*$36,468*	
* Program Technician II: *See Attachment for detail*	*4.74*	*$36,468*	
● **Fringe Benefits:**	23.7%	Per Position	131,718
● **Salary Savings:**	-5.5%	Per Position	-37,812
Total Personal Services			**$649,678**
OPERATING EXPENSES:			
● **Operating Expenses:** Clerical Positions:	$2,400	Per New Position	$36,576
● **Rent:** BY 2004-05	$5,478	Per New Position	83,485
Total Operating Expenses			**$120,061**
TOTAL EXPENDITURES			**$769,739**
(Rounded)			**$770,000**

FUNDING:

100% General Fund.

CHANGE FROM PRIOR ESTIMATE:

This is a new assumption.

REASON FOR YEAR-TO-DATE CHANGE:

N/A

EXPENDITURES: $770,000

General Fund	$770,000
General Fund Match	*0*
General Fund Other	*770,000*

Family Cost Participation Assessment Program (FCPAP)
Worksheet for Full-Time Equivalents (FTEs)

BY 2004-05	Population	Required Hours	Total Hours	Full-Time Equivalent 1,778 Hours
Population:				
1. In-Home Non-Medi-Cal Eligible Consumers (Ages 3 thru 17)	22,448			
2. FCPAP Population Above 400 % of Poverty Level. Based on full year population of 6,793 divided by 12 and multiplied by 6 months (1/1/05).	3,397			
Program Technician II:				
3. 0.5 Position Per 21 Regional Centers (effective December 1, 2004)				6.13
4. Initial Determinations	3,397	2.5	8,493	4.78
5. Annual Determinations	0	1.0	0	0.00
6. Re-Determinations for 5% of FCPAP Population (Item 4 X 5%)	170	4.0	680	0.38
Total Program Technician II Positions				**11.29**

FY 2005-06	Population	Required Hours	Total Hours	Full-Time Equivalent 1,778 Hours
Population:				
7. 2004-05 FCPAP Population Above 400% of Poverty Level (4 months)	3,397			
8. 2004-05 FCPAP Population Above 400% of Poverty Level (annualized)	3,396			
9. 2005-06 FCPAP Population Growth	70			
10. 2005-06 FCPAP Population Above 400% of Poverty Level (Items 7+ 8+9)	6,863			
Program Technician II:				
11. 0.5 Position Per 21 Regional Centers				10.50
12. Initial Determinations (Item 8)	3,396	2.5	8,490	4.78
13. Growth (Item 9)	70	2.5	175	0.10
14. Annual Determinations (Item 7)	3,397	1.0	3,397	1.91
15. Re-Determinations for 5% of FCPAP Population (Items 12+13+14 X 5%)	343	4.0	1,372	0.77
Total Program Technician II Positions				**18.06**

FY 2006-07 (Ongoing)	Population	Required Hours	Total Hours	Full-Time Equivalent 1,778 Hours
Population:				
16. 2005-06 FCPAP Population Above 400% of Poverty Level (Item 10)	6,863			
17. 2006-07 FCPAP Population Growth	70			
18. 2006-07 FCPAP Population Above 400% of Poverty Level (Items 7+ 8)	6,933			
Program Technician II:				
19. 0.5 Position Per 21 Regional Centers				10.50
20. Growth (Item 17)	70	2.5	175	0.10
21. Annual Determinations (Item 16)	6,863	1.0	6,863	3.86
22. Re-Determinations for 5% of FCPAP Population (Items 20+21 X 5%)	347	4.0	1,388	0.78
Total Program Technician II Positions				**15.24**

Actual 2002-03 Purchase of Services Expenditures for 22,448 Consumers Meeting Family Cost Participation Assessment Program Criteria

Budget Category	FCPAP Services				Non-FCPAP Services	Total Services
	Respite	Day Care	Camping	Subtotal		
Out of Home					$600,725	$600,725
Day Programs*					9,702,061	9,702,061
Transportation					770,884	770,884
Support Services					21,071,806	21,071,806
In-Home Respite	$35,302,658			$35,302,658		35,302,658
Out-of-Home Respite	359,931	$11,637,776		11,997,707		11,997,707
Health Care					6,384,305	6,384,305
Miscellaneous			$1,063,823	1,063,823	25,941,048	27,004,871
FY 2002-03 Total	**$35,662,589**	**$11,637,776**	**$1,063,823**	**$48,364,188**	**$64,470,829**	**$112,835,017**

*The majority of Day Program costs are temporary in nature and are transitional until children begin school.

Summary

Estimate of Family Cost Participation Assessment Program (FCPAP)

Effective January 1, 2005

	Cost/Consumer Description		Purchase of Services $	Consumers	Per Capita Annual	Per Capita Monthly
A.	Cost of all Purchased Services, Non Medi-Cal Consumers, Ages 3 - 17		$112,835,017	22,448	$5,027	$419
B. 1.	Cost of Respite, Day Care and Camp Services Only, Non Medi-Cal Consumers, Ages 3 - 17 w/ Reduction for Siblings, Families >= 400% Poverty Level		$13,562,537	6,793	$1,997	$166
2.	FCPAP Cost Assessment					
	Total Cost of Weighted Participation Rates 5% - 80%					
	FY 2004-05 (6 months, phased in)		$570,000	3,396	$168	$14
	FY 2005-06 (12 months, phased in)		$3,143,000	6,793	$463	$39
	FY 2006-07 (fully effective)		$3,508,000	6,793	$516	$43
	Detail for FY 2006-07:					
		Poverty Level				
	5%	400 - 500%	*204,000*	*1,956*	*104*	*9*
	10%	500 - 600%	*258,000*	*1,235*	*209*	*17*
	15%	600 - 700%	*281,000*	*896*	*314*	*26*
	20%	700 - 800%	*277,000*	*666*	*416*	*35*
	30%	800 - 900%	*255,000*	*412*	*619*	*52*
	40%	900 - 1000%	*264,000*	*318*	*830*	*69*
	50%	1000 - 1100%	*237,000*	*226*	*1,049*	*87*
	60%	1100 - 1200%	*188,000*	*147*	*1,279*	*107*
	70%	1200 - 1300%	*197,000*	*133*	*1,481*	*123*
	80%	>= 1300%	*1,347,000*	*804*	*1,675*	*140*

Sampling: Average FY 2006-07 Cost Impact of FCPAP on Families of 4 by Various Income Levels

Non Medi-Cal, Ages 3 - 17 >= 400% Poverty Level Respite, Day Care and Camp Services Only, 5 - 80% Weighted Participation Rates	Gross Income for Family of 4	Avg Per Capita Annual Cost Sharing Assessment	Poverty Level
5%	$73,600	$313	400%
40%	$165,600	$888	900%
80%	>= $239,200	$1,179	>= 1300%